

Amendment No. 1 to SB3400

**Williams
Signature of Sponsor**

AMEND Senate Bill No. 3400*

House Bill No. 3508

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 4-3-2305, is amended by adding the following language:

(c) It being in the public interest and for a public purpose to support the participation of small businesses in department contracts, the department is authorized to establish the programs described herein to assist small businesses to participate in department contracts, either as a prime or as a subcontractor. For the purposes of this section, small business shall be defined as certified disadvantaged business enterprises as defined by 49 Code of Federal Regulations Part 26 and business enterprises that satisfy all the requirements of a disadvantaged business enterprise under Part 26, including but not limited to requirements of business size and net worth of owners, other than the requirement that the owners of the business qualify as a member of the groups identified in subsection 2 of the definition of socially and economically disadvantaged individuals in 49 Code of Federal Regulations Part 26.5. The commissioner may promulgate rules to implement the purpose of this section.

(1) The department is authorized to conduct studies to determine whether any group consisting of socially and economically disadvantaged individuals as defined in 49 Code of Federal Regulations Part 26 is underutilized on state funded construction projects. In the event underutilization is documented and any other necessary findings are made, the commissioner may elect to set appropriate goals on state funded projects.

(2) The department is authorized to offer construction management development programs for small businesses and may charge a fee for the programs.

(3) The department is authorized to create and implement a surety bond guarantee program for small businesses to act as subcontractors on department construction projects. The state may guarantee up to ninety percent (90%) of a surety bond amount of two hundred fifty thousand dollars (\$250,000) or less and up to eighty percent (80%) of a surety bond amount greater than two hundred fifty thousand dollars (\$250,000) if such surety bond is provided by an approved surety. The department may be entitled to receive a fee from a participating small business and may require any participating small business to set aside part of the subcontract amount as security for the surety bond or guarantee. The department shall promulgate rules to effectuate this subsection. In no event shall the total amount guaranteed under this program at any given time exceed five million dollars (\$5,000,000). The department is authorized to expend funds from the highway fund to fund administrative expenses and fund any losses that may arise under the surety bond guarantee program.

(4) The commissioner shall report annually in writing on the progress of this program to the speaker of the senate, the speaker of the house of representatives, and the governor. The report shall include, as a minimum, the number of users of the surety bond guarantee plan; the number of defaults and dollar loss; the cost of the program categorized by cost of administration; and the cost of on-the-job and classroom instruction.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.